



GP 1435

Dkt. 65219-A/JPW/PJP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

7 / K.T.
11/18
ELECTION

Applicants : Michael R. Rosen et al.

Serial No. : 09/898,417 Examiner: Brian Whiteman

Filed : July 3, 2001 Group Art Unit: 1635

For : A HIGH THROUGHPUT BIOLOGICAL HEART RATE
MONITOR THAT IS MOLECULARLY DETERMINED

1185 Avenue of the Americas
New York, New York 10036
November 4, 2002

Assistant Commissioner for Patents
Washington, D.C. 20231

SIR:

COMMUNICATION IN RESPONSE TO OCTOBER 2, 2002 OFFICE ACTION

This Communication is submitted in response to the Office Action issued by the U.S. Patent and Trademark Office on October 2, 2002 in connection with the above-identified application. A response to the Office Action was due on November 2, 2002. Because November 2, 2002 fell on a Saturday, a response is timely filed if filed on the next day which is not a Saturday, Sunday or holiday, which in this case is Monday, November 4, 2002. Accordingly, this response is being timely filed.

In the October 2, 2002 Office Action, the Examiner required restriction to one of the following allegedly independent and distinct inventions characterized by the following Groups I - IX:

- I. Claims 1-3 and 13-16, drawn to a method of assaying whether an agent affects heart rate,

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- wherein the compound is not a nucleic acid classified in class 424, subclass 9.1.
- II. Claims 1-4 and 13-16, drawn to a method of assaying whether an agent affects the membrane potential of a cell, wherein the compound comprises a nucleic acid which encodes MiRP1, classified in class 514, subclass 44.
 - III. Claims 1-3, 5, 6, and 13-16, drawn to a method of assaying whether an agent affects the membrane potential of a cell, wherein the compound comprises a nucleic acid which encodes HCN1, classified in class 514, subclass 44.
 - IV. Claims 1-3, 5, 7, and 13-16, drawn to a method of assaying whether an agent affects the membrane potential of a cell, wherein the compound comprises a nucleic acid which encodes HCN2, classified in class 514, subclass 44.
 - V. Claims 1-3, 5, 8 and 13-16, drawn to a method of assaying whether an agent affects the membrane potential of a cell, wherein the compound comprises a nucleic acid which encodes HCN4, classified in class 514, subclass 44.
 - VI. Claims 1-3 and 9-16, drawn to a method of assaying whether an agent affects the membrane potential of a cell, wherein the compound comprises a nucleic acid which encodes MiRP1 and a HCN channel, classified in class 514, subclass 44.

If applicants elect Group VI applicants are further required to elect a specific HCN selected from

- Group I. The nucleic acid further encoding HCN1,
 - Group II. The nucleic acid further encoding HCN2, or
 - Group III. The nucleic acid further encoding HCN4.
- VII. Claims 17, drawn to a method of assaying whether an agent affects the membrane potential of a cell, classified in class 424, subclass 9.1
 - VIII. Claim 18, drawn to a method of assaying whether an agent affects the activation of a cell, classified in class 424, subclass 9.1.
 - IX. Claim 19, drawn to a method of assaying whether an agent affects the contraction of a cell, classified in class 424, subclass 9.1.
 - X. Claim 20, drawn to a vector comprising a nucleotide sequence encoding an ion channel protein, classified in class 435, subclass 320.1.

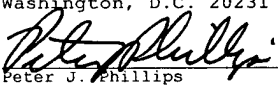
Michael R. Rosen et al.
Serial No.: 09/898,417
Filed: July 3, 2001
Page 3

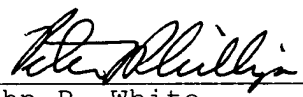
In response to the Office Action, applicants elect the invention of Group VI, i.e., claims 1-3 and 9-16. In response to the further requirement that the applicant is required to elect a specific HCN, applicant elects Group I, i.e., a nucleic acid further encoding HCN1.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account 03-3125.

Respectfully submitted,

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:	
U.S. Patent & Trademark Office Washington, D.C. 20231	
 Peter J. Phillips Reg. No. 29,691	<u>8-4-02</u> Date



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